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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/492,398	01/27/2000	Al J. Mooney		9822

7590 01/15/2002  
Coats & Bennett PLLC  
P O Box 5  
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EXAMINER

RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
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2166

DATE MAILED: 01/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/492,398

Applicant(s)

MOONEY, AL J.

Examiner

Sam Rimell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

*SAM RIMELL*  
*PRIMARY EXAMINER*  
*AU 2166*

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1, 2, 4, 8, 9, 10, 11 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Silver ('339).

Silver discloses a website provided by a medical care provider (FIG. 2). The website is provided as a web page through the internet (col. 8, line 16). The website of the medical care provider is used to collect information from the patient which is analyzed. Once the information has been analyzed, specific medical products are prescribed (FIGS 27-29). The patient can then order the product by clicking on icons under the "Products" header on specific website pages (FIGS. 19-21). As set forth in column 18, lines 19-47, the clicking of these icons will either bring up specific products which can be directly ordered from the medical provider, or provide URL's which will link the patient to a medical supply vendor. Any order made by the user can be conveyed to the vendor if a vendor URL is selected and a purchase transaction is initiated.

The medical care provider's website is the gateway to the vendor since the user can only reach the vendor through the medical care provider's website. Paying for ordered supplies is inherent to the process of obtaining supplies.

The process of providing payment information is inherent to the process of purchasing a product.

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Silver explicitly illustrates pharmaceuticals as types of medical supplies which may be obtained by the user.

However, Silver is not limited strictly to the vending of pharmaceuticals and recites any type of "product or service" as being obtainable by the patient (col. 18, line 60). This includes medical devices. It is also noted that a pharmaceutical reads as a "medical device".

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 5-7, 12-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silver ('339).

Silver differs from claim 3 in that it does not disclose the presence of an e-commerce provider as an intermediary. However, this is well known in the art by applicant's own admission (page 7, lines 6-9). It would have been obvious to one of ordinary skill in the art to process payment for products through an e-commerce provider by applicant's own admission.

Silver differs from claim 5 in that it does not disclose the process of securing payment through usage of a credit card. However, this is well known in the art by applicant's own admission (page 7, lines 6-9). It would have been obvious to one of ordinary skill in the art to modify Silver to process payments for merchandise by use of a credit card by applicant's own admission.

Silver differs from claims 6-7 in that it does not disclose the process of having a physician accept payment for product and be debited for some or all of the payment provided by

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the patient. However, examiner takes Official Notice that this process has been very well known in the art for many decades, and is commonly used in the practice of opticians and podiatrists. In the case of an optician, a patient will pay upfront for lenses and the optician will later be billed for construction and materials associated with fabricating the lenses. In podiatry, a patient will commonly pay upfront for the cost of a foot orthotic, and then the podiatrist will be billed for the construction and materials associated with the fabrication of the orthotic. Applying such a payment arrangement to the system of Silver would have been obvious to one of ordinary skill in the art as a mechanism for assuring payment of a product vendor.

Claim 12 differs from Silver with respect to the same features as described in claims 6-7, and would have been obvious for the same reasons as described with respect to claims 6-7.

Claims 13-15 and 17 differ from Silver in that they refer to the intervention of an e-commerce provider. The intervention of an e-commerce provider in a sales transaction is admitted by applicant as being well known in the art (page 7, lines 6-9) and would have been obvious to deploy by applicant's own admission.

Claims 16 and 19 differ from Silver in that they call for the e-commerce provider to have a hyper-link to the website of the supply vendor. Examiner takes Official Notice that such a practice was very known in the art at the time of invention. For example, an e-commerce provider known as "Pay Pal" is commonly linked to the web sites and electronic mailings of product vendors. Given that Silver already discloses the principle of providing hyperlinks to product vendors, providing a hyperlink to an e-commerce payment provider such as Pay Pal would also have been obvious to one of ordinary skill in the art for the purpose of facilitating payment.

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Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.

A handwritten signature in black ink, appearing to read 'S. Rimell', written in a cursive style.

Sam Rimell  
Primary Examiner  
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